

REMARKS

This application has been reviewed carefully in view of the Office Action mailed October 3, 2003. In that Office Action, the Abstract of the Disclosure was objected to for containing more than 150 words. Also, claims 1-2, 13, and apparently 17-19 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morioka et al., U.S. Patent No. 5,995,111 in view of Itai et al., U.S. Patent No. 5,880,709. Claims 3-12, 15-16, and apparently 14, were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Morioka et al., in view of Itai et al., and further in view of Sato, U.S. Patent No. 6,201,517.

Applicants have added new claims 20 and 21.

The above-described objections and rejections are addressed as follows:

I. REQUEST FOR INTERVIEW

In light of the present amendments and remarks, the applicants believe that the claims are now in condition for allowance. Nevertheless, the applicants request a telephonic interview to try and efficiently resolve any claims that the examiner does not feel are in condition for allowance.

II. OBJECTION TO THE ABSTRACT

Applicants now provide an amended Abstract of the Disclosure addressing the above-described objection.

III. REJECTIONS UNDER 35 U.S.C. § 103(a)

Applicants respectfully traverse these rejections of claims 1-19, as amended.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all the claim limitations.

5 The teaching or suggestion to make the claimed combination must be found in the prior art and not based on an applicant's disclosure. See, M.P.E.P. § 706.02(j).

Applying the above requirements to the facts of the present application, the cited art clearly fails to render the claims of the application obvious. Moreover, the Examiner
10 has failed to identify any teaching in the cited art for modifying the Itai et al. identification of playable objects in light of the blurring in Morioka et al., to arrive at Applicants' claimed invention. More particularly, as described below, the cited patents fail to disclose all of the recited claim elements, and fail to provide any suggestion or motivation that the references be combined.

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A. The Cited References

Morioka et al. relates to an image processing apparatus that includes a blur processor. Blurring is identified in Morioka et al. for expressing certain qualities. Of
20 relevance to the present discussion, these qualities include using blur to provide depth perception (e.g., making objects near a focus depth clear, and blurring objects distant from the focus depth). See, col. 1, lines 46-50. As described in Morioka et al. (see, FIG. 1), this is embodied in a blur processor showing depth perception between a building 110 on which a camera is focused and a goal 116 positioned far away from the focal depth. See,
25 col. 4, lines 15-19. Morioka et al. fails to suggest any use of focus to identify an object, such as by selecting an object, and then adjusting the focus to be on that object.

An object of the Itai et al. invention is to provide an image processing device and method that is capable of identifying a character displayed on a display screen. See, col. 1, lines 51-54. To that end, a "mark" or "cursor" is displayed on the screen as a circle surrounding a character (see, col 5 line 66 to col. 6 line 3), and the character within the circle is zoomed in upon (col. 7, lines 40-52). Itai et al. fails to suggest any use of focus

whatsoever. Instead, Itai et al. provides its own solution to the problem of identifying a selected object.

5 **B. The Cited References, When Combined, Fail to Teach or Suggest All the Claim Limitations**

The Office Action asserts that "Itai et al. discloses a gaming device having objects (plurality of enemies) or specific portion (specific enemy) being playable (focus) by a player" (see, page 3, start of new paragraph). Applicants respectfully traverse that Itai et al. discloses anything whatsoever to do with focus.

10 Additionally, the Office Action asserts that it would have been obvious to "modify Morioka to include specific objects or the specific portions thereof as is playable by game players and determining the objects [or] specific portions thereof as being in focus according to the operation performed by a player as taught by Itai." Applicants traverse 15 the assertion that the cited combination discloses the claimed invention.

20 Claim 17, as amended recites a game program configured to manipulate data representing a plurality of objects in response to game operations input by the player, ...

wherein, in response to the game operations, the game program is configured to identify an object or object portion from among the plurality of objects; and

25 wherein the computational processing device is configured to calculate image data such that *whichever object or object portion is identified, that object or object portion is displayed in focus* on the display, and other objects or object portions of the plurality of objects are blurred on the display according to their depths relative to the identified object or object portion.

30 Similarly, claim 13, as amended recites an image processing method, including the steps of ...

determining, from the plurality of objects, a specific object or a specific portion thereof as being in focus according to operations performed by a player; and

35 blurring other objects in such a way that the objects becomes more blurred with an increase in the depth thereof relative to *whichever object or portion thereof is determined*.

As noted in the previous section, Morioka et al. discloses the use of blurring to provide a sense of depth perception. The depth perception is not focused on a playable, or even a movable object (such as the car described in Morioka et al., which uses blurring to depict motion rather than depth). If Morioka et al. were modified to include playable objects (or portions) that are to be identified, the combined disclosures would clearly teach that such objects (or portions) are to be identified by zooming in upon an object (or portions) in a “cursor” circle surrounding the object.

The combined references fail to disclose a computational processing device configured to calculate image data such that whichever object or object portion is identified, that object or object portion is displayed in focus on the display, and other objects or object portions of the plurality of objects are blurred on the display according to their depths relative to the identified object or object portion. In short, all of the references fail to disclose a use of focus on specifically identified objects (or portions), as is claimed.

This argument is also applicable to claim 1, which recites a “computational processing device which performs settings in such a way that a specific object or a specific portion thereof is brought into focus and the plurality of objects placed in the world space are blurred according to the depths thereof *relative to the specific object determined as being in focus* or the specific portion thereof determined as being in focus, wherein the specific object or the specific portion thereof is playable by game players.”

Because the cited art fails to teach or suggest all the claim limitations, the Office Action fails to establish a *prima facie* case of obviousness for claims 1, 13 and 17. Dependent claims 2-12, 14-16, 18 and 19 incorporate the limitations of independent claims 1, 13 and 17. Accordingly, the rejections of claims 1-19 under 37 U.S.C. § 103(a) are improper, and Applicants respectfully request they be withdrawn.

C. The Cited References Fail to Provide Any Suggestion or Motivation That The References Be Combined

The tendency to resort to "indsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the

examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. See, M.P.E.P. § 2142.

5 To meet its burden of showing prima facie obviousness, the PTO must necessarily show some objective teaching that would lead one of ordinary skill to combine the relevant teachings to solve the problem confronting the applicant. See, e.g., *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988).

10 The Office Action acknowledges that Morioka et al. does not disclose specific objects or portions thereof that are playable by a player. More to the point, it further acknowledges that Morioka et al. fails to disclose that objects, or portions thereof, as identified by game operations, are focused upon.

15 The Office Action, in asserting a suggestion or motivation to modify Morioka et al. in view of Itai et al., recites that “[t]o do so would provide game players with the ability of easily and rapidly identifying characters on the display screen in a shooting type game RPG (Role Playing Game) game.” See, the Office Action, last paragraph starting on page 3.

20 The asserted suggestion for combining the references is not applicable to Morioka et al.. The Morioka et al. device is not identified as a “shooting type game RPG (Role Playing Game) game,” such as would benefit from “the ability of easily and rapidly identifying characters on the display screen.” Thus, the references fail to provide a 25 suggestion to modify Morioka et al. in view of Itai et al..

More particularly, Itai et al. is directed toward identifying playable objects with a cursor and/or frame, and zooming in/out the playable object. However, the game or simulation of Morioka et al. is not identified as a game having various selectable, playable 30 objects. Thus, Morioka et al. is not identified as being subject to the problem that Itai et al. purports to solve.

Furthermore, the entire point of Itai et al. is that a device can use a zoomable "cursor" to solve the problem of easily and rapidly identifying a character. It would be entirely contrary to the teachings of Itai et al. to solve the problem of easily and rapidly identifying a character in an entirely different way, such as by using a display processor to 5 select a focal depth to identify an object.

Because the asserted suggestion to combine the cited references is not applicable to Morioka et al., because Morioka et al. is not identified as being subject to the problem that Itai et al. purports to solve, and because it would be contrary to the teaching of Itai et al. to 10 solve the problem addressed by Itai et al. in an entirely different way, there is no suggestion or motivation to combine the references or modify Morioka et al. with the alleged teachings of Itai et al..

Because the cited references fail to suggest that Morioka et al. be modified in view 15 of the alleged teachings of Itai et al., the Office Action fails to establish a prima facie case of obviousness for claims 1, 13 and 17. Dependent claims 2-12, 14-16, 18 and 19 incorporate the limitations of independent claims 1, 13 and 17. Accordingly, the rejections of claims 1-19 under 37 U.S.C. § 103(a) are improper, and Applicants respectfully request they be withdrawn.

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IV. CONCLUSION

In view of the foregoing, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

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Respectfully submitted,

HIRAOKA et al.

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